

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
OCT 23 2006

DAVID J. MALANDI, CLERK

BY
DEPUTY _____

UNITED STATES OF AMERICA §

§

vs. §

§

MICHAEL LLOYD FLETCHER §

Case No. 4:01CR84
(Judge Brown/Judge Bush)

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on September 26, 2006, to determine whether the Defendant violated his supervised release. The Defendant was represented by Denise Benson. The Government was represented by Maureen Smith.

On January 27, 1997, the Defendant was sentenced by the United States District Judge Terry R. Means to 12 months imprisonment followed by a 3-year term of supervised release for the offenses of Bank Theft and Aiding and Abetting. On April 1, 2005, Defendant began his supervised release.

On April 10, 2006, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision. The petition asserted that the Defendant violated the following conditions: (1) The Defendant shall report to the probation officer and shall submit a truthful and complete written report within the first 5 days of each month; (2) Defendant shall notify the probation officer at least 10 days prior

to any change in residence or employment; (3) Defendant shall not illegally possess a controlled substance; (4) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to such substances, except as prescribed by a physician; (5) Defendant shall participate in a program of testing and treatment for drug abuse, as directed by the probation officer, until such time as the defendant is released from the program by the probation officer; and (6) Defendant shall pay restitution in the amount of \$1,932.00.

The petition alleges that the Defendant committed the following acts: (1) Defendant failed to submit a monthly report for February 2006; (2) Defendant moved from his residence, did not contact his probation officer, and he did not provide a forwarding address; (3) On April 26, May 2, May 5, and December 28, 2005, and February 6, 2006, Defendant submitted urine specimens that tested positive for marijuana; (4) Defendant admitted to using marijuana on April 16 and December 18, 2005; (5) On February 13 and 28, and March 2 and 6, 2005, Defendant failed to submit urine specimens; (6) On May 18, 19, 25, and 31, 2005, Defendant failed to attend group counseling sessions and has failed to re-enroll in counseling with Tarrant Community Outreach, Inc., as instructed on February 2, 2006; and (7) Defendant has failed to pay his restitution balance of \$1,923.00.

Prior to the Government putting on its case, the Defendant entered a plea of true to the above listed violations. At the hearing, the Court recommended that the

Defendant's supervised release be revoked.

RECOMMENDATION

The Court recommends that the District Court revoke Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of eight (8) months, with no supervised release to follow, and Defendant is to pay restitution in the amount of of \$1493.00.

Signed this 28 day of September, 2006.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE